

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF TEXAS,

Defendant.

§
§
§
§
§
§
§
§

Civil No. 1:21-cv-796

EXHIBIT 9

Declaration of Alix McLearen, PhD.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

v.

STATE OF TEXAS,

)
)
)
)
)
)
)

Case No. 1:21-cv-796

DECLARATION OF ALIX M. McLEAREN, PH.D.

In accordance with 28 U.S.C. § 1746, I, Alix M. McLearen, Ph.D., make the following sworn declaration, under penalty of perjury.

PERSONAL BACKGROUND

1. I am the Senior Deputy Assistant Director for the Reentry Services Division for the Federal Bureau of Prisons (BOP). I am also a licensed clinical psychologist and career law enforcement officer. Since obtaining my doctorate, I have been employed in positions of increasing responsibility with the BOP for more than 18 years. Prior positions I have held include Chief of Psychology Services at the Federal Correctional Institution in Memphis, Tennessee, and the agency's first Branch Chief overseeing the management of women and special population inmates.

2. In my current capacity, I retain responsibility for oversight of female offender issues and also manage the day to day operations of all reentry services, including education, residential reentry, chaplaincy, and psychology services. I authored the Female Offender Manual, the agency's policy pertaining to the management of pregnant offenders. This program statement includes references to federal regulations and the agency's procedures for managing

pregnancy termination issues. *See generally* Exhibit A - BOP Program Statement 5200.07, *Female Offender Manual*, May 12, 2021.

3. I make the following statements based on my personal knowledge and information made available to me in the course of my official duties.

4. This declaration is submitted in support of the United States' Emergency Motion for a Temporary Restraining Order and a Preliminary Injunction.

THE FEDERAL BUREAU OF PRISONS (BOP)

5. Pursuant to 18 U.S.C. § 4042, the BOP, under the direction of the Attorney General, has charge of the management and regulation of all Federal penal and correctional institutions. The BOP's mission is to ensure that federal offenders serve their sentences of imprisonment in facilities that are safe, humane, cost-efficient, and appropriately secure, as well as to provide reentry programming to ensure their successful return to the community in the interests of public safety and welfare. As of the date of this declaration, the BOP operates 122 federal prisons and manages an inmate population of 155,763.

6. The BOP operates 28 facilities housing women, three of which are located in Texas. These facilities are the Federal Medical Center Carswell located in Fort Worth, Texas (FMC Carswell), the Federal Prison Camp located in Bryan, Texas (FPC Bryan), and the Federal Detention Center located in Houston, Texas (FDC Houston).

7. In addition, more than 400 women are currently in community custody under BOP supervision in Texas. Community custody includes women placed in a Residential Reentry Center (RRC) or on home confinement while they serve the remainder of their federal sentences. Because of their placement in the community, it is possible that these women could become pregnant while still serving their federal sentences under BOP supervision.

FEMALE OFFENDER MANAGEMENT

8. Federal regulations allow a woman in BOP custody, whether that be in the community or a secure facility, to seek and obtain an abortion if she is pregnant and desires to terminate the pregnancy. *See* 28 C.F.R. §§ 551.20, *et seq.*; *see also* BOP Program Statement 5200.07, Female Offender Manual, at 12, 16-17.

9. Pursuant to Federal regulation and BOP policy, the Warden of the facility where a pregnant inmate is located shall ensure that inmate is provided medical, case management, and counseling services. *See* 28 C.F.R. § 551.22(a). The Warden shall also offer the pregnant inmate medical, religious, and social counseling to aid her in making the decision whether to carry the pregnancy to term or to have an elective abortion. *Id.* § 551.23(b); *see also* BOP Program Statement 5200.07 at 16-17. Indeed, BOP itself issues a booklet to pregnant women to ensure they educated about their rights concerning pregnancy, including the choice of whether or not to terminate that pregnancy. *See* Exhibit B – A Guide to Expecting Moms in the BOP.

10. If the inmate elects to have an abortion, she signs a written statement to that effect, which is processed through her unit management team. The Clinical Director of the BOP institution where the inmate is housed shall then arrange for an abortion to take place with an outside specialist in the community. Ordinarily, the provider is located within or near the community where the facility is located for reasons of practicality.

11. If the inmate is in secure custody, BOP staff provide escort and follow-up services associated with the procedure. These staff include mental health and medical professionals, but also unit management, financial, and custody personnel. In practice, this means staff schedule the appointment for the inmate and take her to and from the appointment. Every case is different, but staff may have to take the inmate back for monitoring or medical issues that

develop. They may also provide mental health or other monitoring contacts once she returns to the facility that relate to her abortion procedure. Upon receipt of billing information, staff are also responsible for transferring funds from the inmate's account to ensure payment is remitted.

12. If the inmate is in community custody, BOP staff and third-parties under contract with BOP assist the inmate by approving appointments, travel, or missed work. The BOP is required to coordinate interstate travel by an inmate housed in the community with the United States Probation Office; personnel from that agency would be involved as well if an inmate housed in the community needs to travel out of state because their approval would also be required.

13. The BOP assumes all costs associated with the abortion procedure when the life of the mother would be endangered if the fetus is carried to term, or in the case of rape or incest. Otherwise, non-BOP funds must be used to pay for any abortion procedure, or else the planned abortion may not be performed. In all cases, however, whether the BOP pays for the abortion or not, the BOP may expend funds to escort the inmate to a facility outside the institution to receive the procedure. *See* BOP Program Statement 5200.07 at 17.

S.B. 8'S IMPACTS ON BOP OPERATIONS

14. S.B. 8 interferes with the BOP's obligation under its regulations and policy to facilitate abortion care for inmates in several respects.

15. S.B. 8 disrupts the performance of required duties of BOP staff. It is my belief this law will create confusion among BOP staff employed in Texas as to whether they can follow established BOP policy, and perform aspects of their duties and responsibilities, in order to assist the inmate with the process of electing to have an abortion; BOP is already having difficulty determining how S.B. 8 affects its policies and practices. In so doing, it may also create fear of

personal liability for complying with established BOP rules and policy, undermining BOP staff's performance of their duties and responsibilities. The BOP is a policy-driven agency and compliance with applicable BOP policy and regulations is required for maintaining orderly running of BOP operations.

16. For the same reasons, S.B. 8 also similarly disrupts the performance of BOP contractors, who are also bound to adhere to BOP's rules and policies. Like BOP staff, the agency's contractors must comply with the statement of work, applicable BOP policies, and regulations in order to ensure orderly running of operations.

17. Furthermore, S.B. 8 also interferes with the BOP's ability to make appropriate housing and designation determinations for inmates. Pursuant to 18 U.S.C. § 3621(b), the BOP has the exclusive authority to designate the place of an inmate's imprisonment, taking into consideration certain factors including but not limited to Court recommendations, the inmate's programming needs, the inmate's mental and medical health needs, faith-based requests, and BOP security concerns. Furthermore, the BOP is required to attempt designation to an institution within 500 miles from the inmate's primary residence. As a result of the Texas law, the BOP now has to consider housing pregnant women, who are from Texas, outside the state.

18. That added consideration is particularly burdensome because BOP's only medical facility for women is FMC Carswell. Pregnant women with comorbid medical and mental health conditions have no options to be housed outside of Texas if secure BOP custody is required because FMC Carswell is the only BOP facility in the nation equipped to treat such individuals.

19. S.B. 8 also imposes a direct burden on BOP resources and personnel. In abortion cases, BOP expends resources to transport and escort women to an abortion procedure in the community. Because S.B. 8 severely restricts legal abortion procedures available in Texas, and

further may have the practical effect of causing many abortion clinics to close, BOP may be forced to either escort women within Texas out of state to a private clinic to receive an abortion after six weeks of pregnancy or, alternatively, transfer the inmate to a suitable BOP facility in another state. Even in cases where an inmate is not yet six weeks pregnant, S.B. 8's likely practical effect of closing down many Texas clinics will likely require BOP to escort inmates greater distances to an available clinic, either within Texas or outside of the state, if transfer to a suitable BOP facility in another state is not possible. S.B. 8 is thus likely to interfere with how BOP carries out its regulatory duties and policies. And further, S.B. 8 is likely to place additional burdens on BOP personnel and resources due to more onerous travel and escort requirements for women seeking abortion procedures.

20. Similarly, in cases of rape or incest, BOP assumes all costs of an abortion procedure. Because S.B. 8 contains no exception for abortions in cases of rape or incest, BOP will also have to alter practices in adhering to its regulatory mandate to assume the costs of an abortion in such cases, particularly where interstate transfer of the inmate may be required.

21. S.B. 8 also may cause confusion among inmates in Texas as to whether they can exercise their right under BOP policy to have an abortion. Women in BOP custody request and obtain abortions, and staff have followed BOP policies and regulations in order to assist these female offenders who elect to have abortions.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this 14th day of September 2021.

Alix M. McLearen, Ph.D.
Senior Deputy Assistant Director
Reentry Services Division
Federal Bureau of Prisons

BOP Exhibit A



U.S. Department of Justice
Federal Bureau of Prisons

PROGRAM STATEMENT

OPI: RSD/FOB
NUMBER: 5200.07
DATE: May 12, 2021

Female Offender Manual

/s/

Approved: M.D. Carvajal
Director, Federal Bureau of Prisons

1. PURPOSE AND SCOPE

To ensure the Bureau provides programs, services, and policies that are gender-responsive, trauma-informed, culturally sensitive, and address the unique needs of incarcerated females at facilities that house female offenders.

This Program Statement addresses specific needs of female offenders within the Bureau of Prisons; this Program Statement is not intended to provide preferential treatment based solely on gender.

Definitions

- *Gender-responsive* approaches are based on an understanding of the ways females are different from men. They aim to address issues of importance to females.
- *Trauma-informed* approaches recognize the experiences and outcomes of all types of trauma and take steps to address them through policy and programs.
- *Culturally sensitive* approaches understand persons of different ethnic or demographic backgrounds may differ or be similar, and value diversity regardless.
- *Stakeholders* are a person, group, or organization that has interest or concern in the Bureau of Prisons. Stakeholders can affect or be affected by the Bureau's actions, objectives, and policies. Some examples of key stakeholders are judges, directors, professors, employees, government agencies, unions, and community.

Federal Regulations from 28 CFR are shown in this type.

Implementing instructions are shown in this type.

a. Summary of Changes

Program Statement Rescinded

P5200.02, CN-1 Female Offender Manual (1/2/18)

- Expands requirements for stocking feminine hygiene items.
- Expands requirements for offering programs in pretrial facilities.
- Changes references to the Female Offender Branch (now the Women and Special Populations Branch).
- Added the requirements of section 301 of the First Step Act (FSA), codified at 18 U.S.C. § 4322, for use of restraints on prisoners during the period of pregnancy and postpartum recovery.
- Defines use of restraints on pregnant inmates

b. Program Objectives. Expected results of this program are:

- The unique needs of female offenders will be considered as Bureau program statements are developed and revised.
- Divisions with institutional programs will develop measurable objectives to ensure female offenders and related special population inmates can access programs and services that meet their individual needs and prepare them to return to the community.
- Sufficient resources/staffing should be allocated to deliver appropriate programs and services to female offenders and related special populations. This goal is particularly important at female satellite facilities attached to male institutions.
- Inmates will have appropriate information about pregnancy prevention options, programs for pregnant females, and counseling or assistance offerings.
- Staff will receive adequate training, enabling them to work effectively with female offenders and related special populations.
- The Women and Special Populations Branch's role is defined, maximizing efficiency of oversight and resource utilization.

c. Institution Supplement. None required. Should local facilities make any changes outside changes required in national guidance or establish any additional local procedures to implement national guidance, the local Union may invoke to negotiate procedures or appropriate arrangements.

Section 1. POLICIES AND APPLICABILITY

1. APPLICABILITY

This program statement applies to all Bureau of Prisons institutions that house female offenders. Guidance that does not apply or differs for facilities housing pretrial or holdover inmates is noted below.

2. STAFF RESPONSIBILITIES

The following Bureau components are responsible for ensuring consistent establishment of the programs, services, and resource allocations necessary for female offenders.

a. Central Office

(1) The **Women and Special Populations Branch** is the agency's source for expertise on classification, management, and intervention programs and practices for females in Bureau custody. The Branch is led by a licensed clinical psychologist and staffed by programming and policy authorities. The Branch is responsible for the following functions:

- Engaging with stakeholders, including serving as the primary point of contact on issues affecting incarcerated females. Feedback is obtained from stakeholders on at least an annual basis.
- Ensuring the Bureau offers appropriate services to inmates that are gender-responsive and trauma-informed.
- Preparing budgetary requests to deliver national and pilot programs or services affecting females.
- Providing guidance and direction to Regional staff and institution leadership.
- Developing and implementing staff training.
- Building a research-based foundation for the Bureau's work with females.
- Presenting at internal and external conferences/events regarding the agency's female offender practices.
- Developing and monitoring monthly reports on the female population and institutional programs.
- Issuing an annual report on the state of female offenders in the Bureau.
- Advising agency leadership on female offender needs through the submission of Executive Staff Papers.
- Obtaining feedback from female offenders on an annual basis and sharing results with internal and external stakeholders.
- Providing national oversight of pilot programs and initiatives serving female offenders.

- Launching recruitment and retention initiatives for staff interested in working with female offenders.

(2) The **Central Office Branches/Divisions** of Correctional Services, Psychology Services, Chaplaincy Services, Education, Correctional Programs, Reentry Affairs, Residential Reentry Management, Health Services, Social Work, Office of General Counsel, Program Review, Intelligence and Counter Terrorism, and Trust Fund meet annually with the Women and Special Populations Branch to discuss female population needs and to evaluate current gender-responsive services. A national union representative from the Council of Prison Locals will be invited to these meetings. During these meetings, the Branches/Divisions share program participation information within their discipline area. The Program Review Division notifies the Branch quarterly of any deficient or acceptable ratings at female institutions within these disciplines based on national guidance.

b. Regions

- Ensure staffing at female facilities is appropriate. This includes satellite camps, which must have designated positions to provide programming.
- Establish a Regional Female Offender Coordinator Collateral Duty Assignment. This individual meets quarterly with the Women and Special Populations Branch to discuss staffing and programming needs. He/she should be allotted twenty percent of his/her duty time to fulfill this role.
- Provide oversight to institutions regarding new programs and other relevant trends.
- Consult with the Women and Special Populations Branch based on the branch's monitoring of program utilization.
- Ensuring women in detention facilities have access to programs similar to those offered at facilities housing sentenced women. This is accomplished by the Regional Female Offender Coordinator conducting an annual review of all programs and providing a report to the Women and Special Populations Branch.

c. Institutions

- Offer established programs and services that target the needs and interests of female offenders.
- Track participation in programs by updating SENTRY and other databases as appropriate.
- Compile a list of gender-responsive programs for posting at the facility, with a copy provided quarterly to the regional coordinator.
- Participate (Wardens) in quarterly meetings with the Women and Special Populations Branch.
- Ensure institution volunteers are appropriately trained in the needs of female offenders.

3. STAFF TRAINING SPECIFIC TO FEMALE OFFENDERS

Staff learn to work with inmates from special populations through the completion of general and specialized training offered throughout their careers.

All staff at institutions or complexes housing female offenders are required to complete training developed by the Women and Special Populations Branch and the trauma-informed correctional care module. Thereafter, refresher information is provided locally on annual basis.

Wardens shall remain aware of gender responsivity issues via mandatory quarterly videoconferences with the Women and Special Populations Branch. The Union will be invited to participate.

4. SPECIAL POPULATIONS

Research has demonstrated that program effectiveness is maximized when services target specific population needs. While some programs may be appropriate for any inmates, offenders' needs may also vary based on gender, age, ability, or other factors. Guidance must also take into account that not all inmates are the same, and ensure the needs of members of smaller populations are adequately addressed and treated. Individuals may be members of more than one special population. This section defines membership in special populations and identifies programming considerations for inmates who are also members of these populations.

Some special populations of offenders include:

- Geriatric Inmates.
- Lesbian, Gay, Bisexual, Transgender, or Intersex Inmates.
- Inmates from Unique Jurisdictions (e.g., Illegal Aliens).
- High Security Unit Females.

a. **Geriatric Inmates.** Geriatric inmates are defined as those at least 65 years of age or older, although aging inmates may seek similar services at age 50. Studies suggest members of the inmate population may present as physiologically older than their actual age due to a combination of lifestyle factors. Considerations for the management of elderly inmates may include the need for longer time to travel across the compound, the possibility of placement in a housing unit near Health Services or the dining hall, the need for an inmate companion, or housing on the bottom level of a facility. Programming considerations may include the need for larger print material or the need for specialty program implementation. The Women and Special Populations Branch should be consulted about program implementation or modification issues.

b. **Lesbian, Gay, Bisexual, Transgender, or Intersex Females.** Lesbian, Gay, Bisexual, Transgender, or Intersex (LGBTI) inmates are a diverse population. Lesbian, gay, and bisexual refer to the sexual orientation of the inmate. Transgender refers to inmates who identify as being a different gender than they were designated at birth. Intersex inmates are persons who, due to prenatal development factors, may not fit into recognized chromosomal or reproductive categories of male or female. Females may fall into more than one of these categories. Staff are encouraged to consult Program Statement **Transgender Offender Manual** for current policies and practices concerning transgender inmates for additional guidance.

LGBTI individuals are more likely than some other inmate populations to have experienced victimization, which may affect their interactions with staff and inmates. Institutions are encouraged to provide access to self-help materials with reentry resource information for this population.

c. **Inmates from Unique Jurisdictions.** Female offenders from jurisdictions with unique rules may have different reentry needs from the rest of the population. Information about release to these areas is distributed to the field, and should be part of an inmate's release planning. The physical location of children and families in the designation and transfer of inmates who are not U.S. citizens should be considered.

d. **High Security Females.** Generally, females in the Bureau are classified at minimum or low security levels. A small, but service-intensive proportion of the female population requires more secure conditions of confinement due to behavioral/management or criminal history issues. Females requiring this level of security may require a higher rate of individualized services, as limited group options are likely to be available.

5. PROGRAM STATEMENT

Managers consider the needs of female offenders and consult with the Women and Special Populations Branch as appropriate during the development of this Program Statement.

Section 2. MANAGEMENT OF FEMALE OFFENDERS

1. CLASSIFICATION AND DESIGNATION

The Bureau's classification system takes into account the different ways risk factors for recidivism may apply to females. Management variables should not be used to over-classify females.

a. **Distance from Home.** Females are incarcerated at much lower rates than males. As a result, there are fewer institutions housing female offenders, meaning females are, on average, housed at greater distances from home than men. Staff will consider location of children and families, not just release destination, and involve the inmates in a discussion of options.

b. **Female Administrative Unit.** High security female inmates may be housed in administrative units, such as the one currently at the Federal Medical Center (FMC) Carswell. The majority of female offenders are appropriate for housing at minimum or low security facilities. A very small number of females may require more secure confinement. Female offenders will receive mental health screening prior to placement on this unit consistent with the procedures for male inmates referred to the Administrative Maximum Penitentiary (ADX) described in the Program Statement **Treatment and Care of Inmates With Mental Illness**.

The Women and Special Populations Branch can provide assistance in establishing appropriate programs for these inmates. In addition, the Regional Director will receive an annual justification from the Warden or designee for each inmate who continues to be placed in the administrative unit, except for those sentenced to death. This rationale is informed by an annual Extended Restrictive Housing Placement Review conducted by Psychology Services consistent with the format described in the Program Statement **Treatment and Care of Inmates With Mental Illness**. The Regional Director will provide this justification to the Assistant Director, Reentry Services Division.

If an inmate's mental health appears to have deteriorated during placement in an administrative unit, the institution's Chief Psychologist works with the Women and Special Populations Branch and Psychology Services Branch to mitigate the impact or identify an alternative placement. Consultation will also be made with the Bureau's Chief Psychiatrist through the Psychology Services Branch.

2. CORRECTIVE ACTION

The purpose of this section is to provide guidance in dealing with female offenders. Discipline should be applied equally to all inmates for their actions according to the Program Statement

Inmate Discipline Program.

Discipline should be corrective and not punitive when sanctioning inmates. The Discipline Hearing Officer (DHO) and Unit Disciplinary Committee (UDC) should consider all factors and the described behavior within the incident report when disciplining inmates. This entails focusing on the influence of trauma, gender, staff-inmate interactions, and input from both staff and inmates. For chronic infractions, referral to an appropriate program should be considered.

Section 3. FEMALE OFFENDER PROGRAMS

All institutions housing female offenders must meet basic standards for offering gender-responsive programs and for ensuring staff responsible for providing the programs have the knowledge and skills to deliver these services. Programs are divided into three categories: National Programs, Model Programs, and local activities or leisure-time programs.

1. PROGRAMMING

National programs rely on standardized admission and delivery criteria across sites, which include at least one full-time staff position. Ordinarily, these programs are also supported by evidence of their impact on recidivism or other desired intervention targets. Examples include the Resolve Program and the Residential Drug Abuse Program. A complete list of national programs is maintained by the Reentry Services Division. Generally, these programs are offered to both male and female inmates, often via the same curricula with gender-appropriate modifications.

The decision to locate a national program at a particular institution is made by Central Office, based on capacity monitoring with existing programs or data demonstrating need for new programs. Ordinarily, all minimum and low security facilities housing female offenders have a Resolve Program. Administrative facilities housing primarily pretrial females are not required to offer the full Resolve Program, but ordinarily provide the Trauma in Life Workshop quarterly.

Offenders are encouraged to participate in national programs. In some cases, a determination will be made at the Central Office level that the needs of a particular population dictate a modified version of a national program be created. Examples of this approach include female versions of the Residential Drug Abuse Program (RDAP), Skills, and Sex Offender Treatment Programs. In these cases, the Women and Special Populations Branch Administrator will work with the appropriate Divisions and Regions to develop and implement the modified program.

The FSA Approved Programs Guide contains a growing number of programs that have been determined to represent evidence-based or promising practices. Evidence-based and promising

practices evolve quickly, therefore a full list is not provided in this Program Statement. Instead, these programs are maintained in the Bureau's FSA Approved Programs Guide. Local implementation of programs will be consistent with all procurement authorities, if applicable.

Evidence-based and promising programs from the FSA Approved Programs Guide specifically for female offenders are considered essential practices. If an institution has resources to deliver programming, institutions will select from gender-responsive programs contained in the FSA Approved Programs Guide. If an institution identifies a program need area for which a gender-responsive program does not exist, the Regional Female Offender Coordinator should contact Central Office for program development consultation.

Each minimum, low, or administrative security institution housing female offenders ensures at least one program from the FSA Approved Programs Guide is designed specifically for females is offered each quarter. This requirement is also extended to facilities housing pretrial women. Foundation is a program designed to assist women in assessing their individual needs and translating that information into attainable goals while building a supportive community. Foundation is offered at least once annually at minimum, low, administrative, and pretrial facilities. It is to be used for women at the beginning of the service of their sentences and can help them plan future program choices. Copies of materials can be obtained from the Women and Special Populations Branch. Completion of the program should be documented. Ordinarily this program is delivered by the Social Worker or Special Populations Coordinator.

Holdover facilities housing female offenders offer at least one FSA Approved Programs annually. Gender-responsive programming options must also be available to females in restrictive housing and in FMC Carswell's Administrative Unit. The Regional Female Offender Coordinator tracks and reports each type of program being provided to the Women and Special Populations Branch quarterly.

Programs not developed specifically for females may also be appropriate to offer at female facilities.

2. LOCAL ACTIVITIES AND LEISURE-TIME PROGRAMS

Beyond required services, institutions housing females offer a number of other activities to meet population needs and develop leisure-time skills. Institutions generally offer Recreation and Adult Continuing Education Programs on an ongoing basis. These programs are implemented based on an understanding of the unique needs of females and other special populations, and take into account females' activity preferences. These services may also be provided by volunteers from the community who demonstrate understanding of issues common to females in corrections.

3. PROGRAM SELECTION AND ASSIGNMENT

Assigning individual females to programs and services should be prioritized based on need; e.g., work history, skill level, resources, sentence length. Waiting lists should be maintained at the institution level for all female offender Programs.

Local programming at each institution may vary based on population needs. To ensure adequate availability of programming options, the Women and Special Populations Branch will provide a forum for internal and external stakeholder feedback on an annual basis to identify potential FSA Approved Program submissions. In addition, because the Women and Special Populations Branch relies on feedback from the field to make resource determinations, institutions should track program participation in SENTRY or other databases, and WASP Central Office monitor this information as needed to ensure adequate service delivery.

Specification of Vocational Certification and Apprenticeship Programs is beyond the scope of this Program Statement. In implementing these programs locally, attention is given to workforce trends, and job skill or training opportunities are provided to females in male-dominated fields as well as more traditional career paths.

4. PROMOTING HEALTHY RELATIONSHIPS

Research has demonstrated the importance of family reunification and supportive community connections in preventing recidivism. In addition, inmates may have supportive relationships which fall outside legal definitions of family. The Bureau of Prisons encourages family engagement and maintenance of these support networks.

a. **Visiting Room Standards.** Visiting rooms at each institution should include child-friendly materials in the waiting area and in a Children's Center within the actual physical visiting space. Institutions are encouraged to contact Central Office for recommendations.

b. **Parent-Child Activities.** If parent-child activities are held at local facilities, local and national policies will be followed, to include dress code. Central Office, including the Women and Special Populations Branch, must be consulted in the development of these activities.

c. **Peer Relationships.** Research has shown the formation and maintenance of relationships to be of particular importance to females. Many females enter prison as the result of criminal behavior tied to a significant relationship. When incarcerated females are separated from their families, they have a tendency to seek new relationships in prison. Sexual relationships are prohibited in all correctional facilities. The Bureau of Prisons supports healthy, appropriate

relationships among female inmates. Female offenders benefit from common areas in which to congregate and engage in supportive social communities, and areas are designated for such activities when space allows.

5. COMMISSARY

All institutions housing females are required to implement standardized gender-responsive commissary lists. This information is available on the Women and Special Populations Branch Sallyport page.

The First Step Act of 2018, Section 611:

(a) AVAILABILITY.—The Director of the Bureau of Prisons shall make the healthcare products described in subsection (c) available to prisoners for free, in a quantity that is appropriate to the healthcare needs of each prisoner.

(b) QUALITY PRODUCTS.—The Director shall ensure that the healthcare products provided under this section conform with applicable industry standards.

(c) PRODUCTS.—The healthcare products described in this subsection are tampons and sanitary napkins.

Hair styling irons (curling iron, flat iron) and hair dryers must also be made available to inmates.

Wardens will ensure inmates are provided the following products (at no cost to the inmates):

- Tampons, regular and super size.
- Maxi Pads with wings, regular and super size.
- Panty liners, regular.

Additional products of this type may be purchased and issued by the facility at the discretion of the Warden. Institutions will purchase the products in accordance with National Acquisitions guidance. These products are provided in addition to those required via the standardized gender-responsive commissary list.

In issuing feminine hygiene products, staff may not ration these items. For inmates in general population, all products must be made available in common areas, either a bathroom or accessible area of the housing unit. Women must have access to these items at all times of the day and may keep them in their cell, consistent with personal property requirements. Monthly issuance of these items is strictly prohibited, and unit replenishment of supplies must be done

with 24 hours of notification that a particular product is lacking. For women in restrictive housing, all five products must be available for issuance on a daily basis.

Misuse of items for other than intended purposes is not cause for withholding access, but is managed via routine disciplinary procedures.

6. PILOT PROJECTS

Research on best practices with the female population are evolving quickly. Pilot Projects aimed at enhancing gender-responsive programs and services are to be anticipated. These initiatives must be approved in accordance with the Program Statement **Pilot Initiatives, Approval and Evaluation**.

7. BIRTH CONTROL, PREGNANCY, CHILD PLACEMENT, AND ABORTION

§551.20 Purpose and scope.

The Bureau of Prisons provides an inmate with medical and social services related to birth control, pregnancy, child placement, and abortion. The Warden shall ensure compliance with the applicable law regarding these matters.

Pregnant females in Bureau custody represent a small population with a significant service need. The Bureau of Prisons provides programs to females, develops procedures for identifying pregnant females, and specifies any special precautions that apply to them.

§551.21 Birth control.

Medical staff shall provide an inmate with advice and consultation about methods for birth control and, where medically appropriate, prescribe and provide methods for birth control.

Medical staff shall provide interested inmates information pertaining to appropriate methods for birth control. The medical indication and appropriateness of prescribing birth control in a correctional environment ordinarily is limited to hormone replacement therapy. Refer to the Program Statement **Patient Care** for more information.

For inmates in or transferring to Residential Reentry Centers, on home confinement, or otherwise in a community setting while under Bureau supervision, birth control may be available under the terms of the Program Statement **Patient Care**.

§551.22 Pregnancy.

(a) The Warden shall ensure that each pregnant inmate is provided medical, case management, and counseling services.

(b) In order to ensure proper medical and social services, the inmate shall inform the institution medical staff as soon as she suspects she is pregnant.

(c) Medical staff shall arrange for the childbirth to take place at a hospital outside the institution.

Medical staff screen for pregnancy during intake, physical, and any contacts where this is appropriate. Upon learning of the inmate's pregnancy either by self-report or clinical diagnostics and assessment, the inmate is immediately notified (within 48-hours after confirmation of pregnancy) of the restraint restrictions as well as how to report any perceived staff misuse of restraints.

The First Step Act of 2018, Section 301 (codified at 18 U.S.C. § 4322):

(a) PROHIBITION.—Except as provided in subsection (b), beginning on the date on which pregnancy is confirmed by a healthcare professional, and ending at the conclusion of postpartum recovery, a prisoner in the custody of the Bureau of Prisons, or in the custody of the United States Marshals Service pursuant to section 4086, shall not be placed in restraints.

(b) EXCEPTIONS.—

(1) IN GENERAL.—The prohibition under subsection (a) shall not apply if—

(A) an appropriate corrections official, or a United States marshal, as applicable, makes a determination that the prisoner—

(i) is an immediate and credible flight risk that cannot reasonably be prevented by other means; or

(ii) poses an immediate and serious threat of harm to herself or others that cannot reasonably be prevented by other means; or

(B) a healthcare professional responsible for the health and safety of the prisoner determines that the use of restraints is appropriate for the medical safety of the prisoner.

(2) LEAST RESTRICTIVE RESTRAINTS.—In the case that restraints are used pursuant to an exception under paragraph (1), only the least restrictive restraints necessary to prevent the harm or risk of escape described in paragraph (1) may be used.

(3) APPLICATION.—

(A) IN GENERAL.—The exceptions under paragraph (1) may not be applied—

- (i) to place restraints around the ankles, legs, or waist of a prisoner;
- (ii) to restrain a prisoner's hands behind her back;
- (iii) to restrain a prisoner using 4-point restraints; or
- (iv) to attach a prisoner to another prisoner.

(B) MEDICAL REQUEST.—Notwithstanding paragraph (1), upon the request of a healthcare professional who is responsible for the health and safety of a prisoner, a corrections official or United States marshal, as applicable, shall refrain from using restraints on the prisoner or shall remove restraints used on the prisoner.

(c) REPORTS.—

(1) REPORT TO THE DIRECTOR AND HEALTHCARE PROFESSIONAL.—If a corrections official or United States marshal uses restraints on a prisoner under subsection (b)(1), that official or marshal shall submit, not later than 30 days after placing the prisoner in restraints, to the Director of the Bureau of Prisons or the Director of the United States Marshals Service, as applicable, and to the healthcare professional responsible for the health and safety of the prisoner, a written report that describes the facts and circumstances surrounding the use of restraints, and includes—

- (A) the reasoning upon which the determination to use restraints was made;
- (B) the details of the use of restraints, including the type of restraints used and length of time during which restraints were used; and
- (C) any resulting physical effects on the prisoner observed by or known to the corrections official or United States marshal, as applicable.

(2) SUPPLEMENTAL REPORT TO THE DIRECTOR.—Upon receipt of a report under paragraph (1), the healthcare professional responsible for the health and safety of the prisoner may submit to the Director such information as the healthcare professional determines is relevant to the use of restraints on the prisoner.

(d) NOTICE.—Not later than 48 hours after the confirmation of a prisoner's pregnancy by a healthcare professional, that prisoner shall be notified by an appropriate healthcare professional, corrections official, or United States marshal, as applicable, of the restrictions on the use of restraints under this section.

(e) VIOLATION REPORTING PROCESS.—The Director of the Bureau of Prisons, in consultation with the Director of the United States Marshals Service, shall establish a process through which a prisoner may report a violation of this section.

(f) TRAINING.—

(1) IN GENERAL.—The Director of the Bureau of Prisons and the Director of the United States Marshals Service shall each develop training guidelines regarding the use of restraints on female prisoners during the period of pregnancy, labor, and postpartum recovery, and shall incorporate such guidelines into appropriate training programs. Such training guidelines shall include—

(A) how to identify certain symptoms of pregnancy that require immediate referral to a healthcare professional;

(B) circumstances under which the exceptions under subsection (b) would apply;

(C) in the case that an exception under subsection (b) applies, how to apply restraints in a way that does not harm the prisoner, the fetus, or the neonate;

(D) the information required to be reported under subsection (c); and

(E) the right of a healthcare professional to request that restraints not be used, and the requirement under subsection (b)(3)(B) to comply with such a request.

(2) DEVELOPMENT OF GUIDELINES.—In developing the guidelines required by paragraph (1), the Directors shall each consult with healthcare professionals with expertise in caring for women during the period of pregnancy and postpartum recovery.

(g) DEFINITIONS.—For purposes of this section:

(1) POSTPARTUM RECOVERY.—The term ‘postpartum recovery’ means the 12-week period, or longer as determined by the healthcare professional responsible for the health and safety of the prisoner, following delivery, and shall include the entire period that the prisoner is in the hospital or infirmary.

(2) PRISONER.—The term ‘prisoner’ means a person who has been sentenced to a term of imprisonment pursuant to a conviction for a Federal criminal offense, or a person in the custody of the Bureau of Prisons, including a person in a Bureau of Prisons contracted facility.

(3) RESTRAINTS.—The term ‘restraints’ means any physical or mechanical device used to control the movement of a prisoner’s body, limbs, or both.

Section 301 of the First Step Act mandates inmates in the custody of the Bureau shall not be placed in restraints, beginning on the date on which the pregnancy is confirmed by a healthcare professional, and ending at the conclusion of the postpartum recovery, which is the 12 week period after birth (or longer as determined by a health care professional). This prohibition shall not apply if an appropriate corrections official (under routine operations the Warden unless an immediate use of force is required) determines the inmate:

- is an immediate and credible flight risk that cannot be prevented by other means;
- poses an immediate and serious threat of harm to herself or others that cannot be

reasonably prevented by other means;

- or if a healthcare professional for the health and safety of the inmate determines that the use of restraints is appropriate for the medical safety of the inmate.

If restraints are used, under one of the exceptions listed above, only the least restrictive restraints necessary to prevent harm or escape may be used. Under these exceptions, restraints may not be placed around the ankles, legs or waist of the inmate; may not restrain the inmate's hands behind her back; and may not restrain the inmate using 4-point restraints or restraining inmates to one another.

If restraints are used on a pregnant inmate, the individual involved is required to submit a memo to the Warden who will submit a report (not later than 30 days after placing the prisoner in restraints), to the Director describing the reasons for their use, the details of their use (including the date, type of restraints used and the length of time), and any observable effects of their use. The restraint of a pregnant inmate must be reported by the Warden to the Assistant Directors of Correctional Programs Division and Health Services Division as well as the Administrator of the Women and Special Populations Branch, Central Office.

A PRE-NATAL MDS code will be loaded in SENTRY within one calendar day by the Health Services staff member responsible for entering all medical duty status (MDS) assignments (See Attachment A). This code is replaced with a POSTPARTUM MDS code when the inmate is in postpartum recovery, which is the 12-week period after birth, or longer as determined by the healthcare professional. Medical staff immediately notify the Case Manager and the Social Worker as well as all other institution staff. In cases where there is no local Social Worker, the Regional Social Worker is notified. The Social Worker meets with the inmate to discuss options for child placement, abortion, and programming. Health Services staff document this contact and the inmate's notification of residential parenting program options in an electronic database within five calendar days of the meeting. Additional MDS codes related to residential parenting placement referrals will be entered as soon as a determination for placement is made.

§551.23 Abortion.

(a) The inmate has the responsibility to decide either to have an abortion or to bear the child.

(b) The Warden shall offer to provide each pregnant inmate with medical, religious, and social counseling to aid her in making the decision whether to carry the pregnancy to full term or to have an elective abortion. If an inmate chooses to have an abortion, she shall sign a statement to that effect. The inmate shall sign a written statement acknowledging that she has been provided the opportunity for the counseling and information called for in this policy.

When medical, religious, and social counseling sessions are completed, each staff member involved documents the session in a memorandum to the inmate's Central File.

A copy of each request for an elective abortion and the supporting documentation from the medical, religious, and social counseling sessions is sent for information purposes to the Medical Director's attention.

(c) Upon receipt of the inmate's written statements required by paragraph (b) of this section, ordinarily submitted through the unit manager, the Clinical Director shall arrange for an abortion to take place.

The Bureau assumes all costs associated with the abortion procedure only when the life of the mother would be endangered if the fetus is carried to term, or in the case of rape or incest. In all other cases non-Bureau funds must be used to pay for any abortion procedure, or else the planned abortion may not be performed. In all cases, however, whether the Bureau pays for the abortion or not, the Bureau may expend funds to escort the inmate to a facility outside the institution to receive the procedure.

Staff shall have knowledge of, and shall be guided by, applicable Federal and state laws and regulations. The Regional Counsel shall be consulted if there are questions concerning the interpretation of laws and regulations.

Pursuant to Section 103 of the Department of Justice Appropriations Bill for Fiscal Year 1996 (Public Law 104-134), the Bureau may not use appropriated funds to require any person to perform or facilitate the performance of an abortion. Staff who wish to have no involvement in facilitating the performance of abortions must advise their supervisor of this fact. Supervisors must not order a staff member's involvement in facilitating this procedure.

§551.24 Child placement.

(a) The Warden may not permit the inmate's new born child to return to the institution except in accordance with the Bureau of Prisons policy governing visiting.

(b) Child placement is the inmate's responsibility. The Warden shall provide opportunities for counseling by institution staff and community social agencies to aid the inmate with placement.

(c) The institution staff shall work closely with community agencies and persons to ensure the child is appropriately placed. The staff shall give notice to the

responsible community agency of the inmate's plan for her child. Child welfare workers may come to the institution in appropriate cases to interview and counsel an inmate.

Social work staff must establish a liaison with the welfare agency or its equivalent and ensures the Bureau receives advance notice of the intended child placement to allow sufficient time for their investigation of potential home sites for the child.

Social Workers also meet with the inmate to provide information regarding Bureau programs for pregnant females. These programs include Mothers and Infants Together (MINT) and the Residential Parenting Program (RPP). The social worker documents this informational contact in the Electronic Medical Record and notifies the Women and Special Populations Branch Administrator, Regional Social Worker, and institution Clinical Director of any inmate wishing to participate in either program.

Administrative discretion is used in deciding to pay for immediate post-natal care of an inmate's child while in custody when the Bureau finds itself responsible for the cost by default (no other resources can be compelled to pay). It is reasonable that the Bureau provides for the child's medical expenses for the first three days after routine vaginal birth or up to seven days for a Caesarean section.

Prior to the birth, the mother must make arrangements for a custodian to take care of the child. At this time, the CEO ensures the person or agency taking custody of the child is also asked to be responsible for medical care costs beyond three days after birth. (**Note:** This may be extended by the Regional Director for an additional seven days for extenuating circumstances on a case-by-case basis.) The person(s) receiving custody of the child should sign a Statement of Responsibility for medical care costs, clearly indicating that the signing party accepts financial responsibility. Unit management advises the inmate to obtain the statement while the inmate is still in the institution. Unit management will then forward copies to the Health Services Administrator (HSA) for placement in the HSA's outside hospitalization file, and to the Business Office.

7. MOTHERS AND INFANTS TOGETHER (MINT) PROGRAM

MINT is a residential program promoting bonding skills for designated pregnant inmates housed in RRC Facilities. The inmate resides with the child at all times inside a contract Residential Reentry Center (RRC). Female inmates are eligible to enter the program at the RRC generally during their last two months of pregnancy. After birth, the mother is allowed at least three additional months to bond with the child, although a minimum of six months is recommended.

The mother is then returned to an institution to complete her sentence, if necessary. If she is eligible for prerelease services, she may remain at that facility only if she is going to be supervised in that judicial district.

The CEO may approve early or extended placements with a recommendation by the treating obstetrician and Clinical Director's concurrence. A placement extending beyond 180 days requires the Regional Director's approval. The Assistant Directors of Health Services and Reentry Services are advised of these placement approvals and denials. Direct court commitments have a secondary designation noted on form BP-A0377, Inmate Load and Security Designation form. This is used to determine the institution responsible for the inmate's medical expenses while she is confined in the MINT Program.

Health Services staff confirm an inmate's pregnancy and evaluate her medical condition. For inmates not yet in custody, reviews are conducted before arrival whenever possible to allow the inmate to go straight to a MINT site. Health Services staff indicate whether RRC placement is medically appropriate and document this on form BP-A0351, Medical/Psychological Pre-Release Evaluation, which is forwarded to unit management. Unit management expeditiously completes the referral and forwards to the Residential Reentry Management Branch for consideration. When unit management has concerns regarding the appropriateness of such a placement, procedures are followed according to Program Statement **Community Corrections Center (CCC) Utilization and Transfer Procedures**. Additional guidance on RRC placement concerns is located in this program statement. When a pregnant inmate is determined not medically appropriate for placement, the Women and Special Populations Branch must be notified.

To qualify for the program, inmates must be pregnant upon commitment, with an expected delivery prior to release. The inmate or guardian must assume financial responsibility for the child's care, medical and support, while residing at the RRC. Should the inmate or the guardian be unable or unwilling to bear the child's financial cost, the inmate may be transferred back to her parent institution. An inmate who becomes pregnant while on furlough, has more than five years remaining to serve on her sentence(s), or plans to place her baby up for adoption must not be referred for MINT placement.

Referrals should state a specific date of placement approximately two months prior to the inmate's expected delivery date.

The RRC's Terminal Report should fully describe the inmate's experience in, and reaction to, the MINT Program. It should also summarize counseling received in the program and include medical or program recommendations for the institution to facilitate the inmate's transition.

Inmates in need of foster care placement assistance are referred to the institution Social Worker, or, if the institution does not have a Social Worker, the regional Social Worker, who should facilitate community assistance.

8. RESIDENTIAL PARENTING PROGRAM (RPP)

The Bureau has an inter-governmental agreement with the Washington Department of Corrections (WADOC) to place qualified, interested pregnant inmates in the RPP at the Washington Correctional Center for Females in Gig Harbor. This voluntary program allows designated pregnant inmates to reside with their child for up to 30 months post-delivery. After 30 months, inmates are released to their home residence if their sentences have been completed, or placed in home confinement if their sentences have not been completed and they meet the statutory requirements for home confinement. Participating females are transferred to WADOC upon acceptance and are responsible for caring for the child while living in a supervised environment. Inmates in the program are eligible for a variety of services (mental health and medical care, vocational training, etc.); childcare is provided while the inmate is participating in these activities.

The Bureau provides for the infant's medical expenses for the first three days after routine vaginal birth or up to seven days for a Caesarean section. Postnatal care and future expenses of the child born to an inmate in the program will be covered by the Department of Social and Health Services in Washington State.

Upon notification of interest from the social worker and verification of pregnancy from medical staff, the unit team completes form BP-A0210, Institutional Referral for CCC Placement, and submits it to the Seattle Residential Reentry Manager. Furloughs are only accepted Tuesdays through Thursdays at RPP. Release residence can be to any state.

The Designation and Sentence Computation Center (DSCC) may also refer initial designations to the Seattle Residential Reentry Manager, with a copy to the Women and Special Populations Branch Administrator.

To qualify for the program, designated inmates must:

- Be pregnant upon commitment, with an expected delivery date prior to release.
- Be scored as minimum security with Out or Community custody.
- Have release dates or home detention eligibility dates within 30 months of the expected delivery date.
- Have no 200 or higher series incident reports in the last six months.
- Have satisfactory or higher work evaluations (if available).

- Be clear of all serious disciplinary violations of an aggressive/assaultive nature.
- Have no current no-contact orders with minor children, no sex offense convictions, no crimes against a child, no domestic violence or other violent convictions, and no contact-founded allegation or inconclusive referrals for neglect or abuse with Child Protective Services.
- Be physically and mentally capable of caring for a child as determined by medical and mental health staff.
- Volunteer, and acknowledge program participation entails involvement in prenatal and postnatal programming related to parenting, use of the child development center and approved inmate caregivers, and maintenance of a schedule.

9. SPECIAL CONSIDERATIONS

Some pregnant inmates may choose not to participate or may be unqualified for participation in the above-described programs. Because these inmates may require special accommodations as the pregnancy progresses, the unit team arranges for inmates to wear different uniforms upon notification of pregnancy. These items are tailored to allow comfort during pregnancy-related weight gain.

Generally, pregnancy does not interfere with an inmate's ability to participate in Bureau programs. When medical exemption from programming is necessary, medical staff indicate this through the SENTRY and Bureau's Electronic Medical Record (BEMR) Medical Duty Status functions. Staff are also reminded of other considerations related to pregnant inmates:

- The Department of Justice's "Report and Recommendations Concerning The Use of Restrictive Housing" states, "Women who are pregnant, who are post-partum, who recently had a miscarriage, or who recently had a terminated pregnancy should not be placed in restrictive housing. In very rare situations, a woman who is pregnant, is postpartum, recently had a miscarriage, or recently had a terminated pregnancy may be placed in restrictive housing as a temporary response to behavior that poses a serious and immediate risk of physical harm. Even in such cases, this decision must be approved by the agency's senior official overseeing women's programs and services, in consultation with senior officials in health services, and must be reviewed every 24 hours."
- The Bureau of Prisons will carefully consider restrictive housing placements affecting females in any of the specified categories, taking into account the severity of the inmate's behavior and the Program Statements **Inmate Discipline Program** and **Special Housing Units**. When placing any of these offenders in restrictive housing, the Warden must contact the Women and Special Populations Branch Administrator, the Bureau Medical Director, and the Correctional Services Administrator for further guidance and continuation of care.
- There are significant special considerations on the use of restraints with pregnant females. If restraints are used, under one of the exceptions listed above, only the least restrictive

restraints necessary to prevent harm or escape may be used. Under these exceptions, restraints may not be placed around the ankles, legs or waist of the inmate; may not restrain the inmate's hands behind her back; and may not restrain the inmate using 4-point restraints or restrain inmates to one another.

- Medical staff may authorize additional nutritional or commissary items. This information is documented in BEMR and provided to the Food Service Administrator and Trust Fund Supervisor.
- Unit staff may consider giving additional family visits or telephone calls, consistent with national guidance, as the time of delivery nears, and after the birth of the child.
- Medical staff may recommend a change in housing (closer to Health Services) or lower bunk for safety reasons.
- Post-natal care of the inmate does not necessarily end when she returns from the hospital. Medical staff will evaluate and indicate through SENTRY and BEMR Medical Duty Status functions any activity limits. Inmates are also referred to the institution's Social Worker (or Regional Social Worker if a local position is vacant) to address any concerns following return to prison.
- Females who have given birth have the option to pump breast milk with a pump provided by the institution for as long as desired. Pumping allows the mother to nurse the child during visits or to retain her milk supply until her release. Ordinarily, this milk is not stored, but rather is disposed of by the inmate under staff supervision. There may be exceptions when milk is stored at the facility; in these rare instances, the Warden requests approval from the Health Services Division.
- Nursing infants is permitted in the visiting room.

REFERENCES

Program Statements

P1210.23	Management Control and Program Review Manual (8/21/02)
P1221.66	Directives Management Manual (7/21/98)
P1315.07	Legal Activities, Inmate (11/5/99)
P1542.06	Inmate Library Services (2/18/97)
P2100.04	Budget Execution Manual (3/18/14)
P4500.12	Trust Fund/Deposit Fund Manual (3/15/18)
P5100.08	Inmate Security Designation and Custody Classification (9/04/19)
P5267.09	Visiting Regulations (12/10/15)
P5270.09	Inmate Discipline Program (11/18/20)
P5270.11	Special Housing Units (11/23/16)
P5300.21	Education, Training, and Leisure Time Program Standards (2/18/02)
P5300.22	Volunteer Services (11/7/16)
P5310.15	Minimum Standards of Administration, Interpretation, Use of Education Tests (09/04/96)
P5310.16	Treatment and Care of Inmates with Mental Illness (5/01/14)
P5310.17	Psychology Services Manual (8/25/16)
P5330.11	Psychology Treatment Programs (4/25/16)
P5350.24	English-as-a-Second Language Program (ESL) (7/24/97)
P5350.27	Inmate Manuscripts (7/27/99)
P5350.28	Literacy Program (GED Standard) (12/1/03)
P5353.01	Occupational Education Programs (12/17/03)
P5354.03	Postsecondary Education Programs for Inmates (12/17/03)
P5355.03	Parenting Program Standards (01/20/95)
P5360.09	Religious Beliefs and Practices (6/12/15)
P5370.11	Recreation Programs, Inmates (6/25/08)
P5538.07	Escorted Trips (12/10/15)
P6031.04	Patient Care (6/3/14)
P7310.04	Community Corrections Center (CCC) Utilization and Transfer Procedure (12/16/98)

Other References

U.S. Department of Justice DOJ Report and Recommendations Concerning The Use of Restrictive Housing (1/25/16)

*ACA Standards (See Program Statement **Directives Management Manual**, Sections 2.5 and 10.3).*

- American Correctional Association Standards for Adult Correctional Institutions,. 5-ACI-3D-04, 5-ACI-3D-05, 5-ACI-6A-10, 5-ACI-6A-21, 5-ACI-5E-02, 5-ACI-5E-10

- American Correctional Association Performance Based Standards for Adult Local Detention Facilities, 4th Edition: 4-ALDF-4C-13, 4-ALDF-4C-22M, 4-ALDF-6B-02.
- American Correctional Association Standards for Administration of Correctional Agencies, 2nd Edition.

BOP Forms

BP-A0210 Institutional Referral for CCC Placement
BP-A0337 Inmate Load and Security Designation
BP-A0351 Medical/Psychological Pre-Release Evaluation

Records Retention

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on Sallyport.

Attachment A

Health Services staff are required to enter the MDS codes listed below.

ASSIGNMENT CODE	DESCRIPTION
PRE-NATAL	Pre-natal - Pregnancy Confirmed - Inmate is notified of Restraint Restrictions
PREG EDD	Pregnancy-Expected Due Date
MRNOTIFIED	MINT/Res Parent Notified of
MINTRPPINT	MINT/Res Parent Interest
MINTRPPDCL	MINT/Res Parent I/M Declined
MR MED YES	MINT/Res Parent Med Appvl YES
MR MED NO	MINT/Res Parent Med Appvl NO
MINTUNTYES	MINT Unit Team Refd YES
MINTUNTNO	MINT Unit Team Refd NO
RPP UNTYES	RPP Unit Team Refd YES
RPP UNT NO	RPP Unit Team Refd NO
MINTDENIED	Denied MINT Placement
RPPDENIED	Denied Res Parent Placement
MINT PL DT	MINT Date of Placement
RPP PL DT	Res Parent Date of Placement
POSTPARTUM	Postpartum Recovery
BRSTPMP	Breast Pump Provided

BOP Exhibit B

RETURNING TO THE INSTITUTION

Either post-delivery or after completing MINT/RPP, you may return to the institution if you are not releasing. If so, the following information will be helpful for you:

- Health Services staff and the Social Worker will follow-up with you to answer questions or address any post-natal concerns.
- If desired, you will be given the option to pump breast milk with a pump provided by the institution. Ask your Health Services provider for more information.
- You may nurse your infant during visitation.

IF YOU ELECT NOT TO CARRY TO TERM

- Please note that laws related to the termination of pregnancy vary among states.
- You will be responsible for the expenses related to the abortion procedure. The BOP will only assume the cost of the abortion in certain circumstances.
- In all cases, whether you or the BOP pays for the abortion, the BOP will arrange to escort you to an outside facility to receive the procedure.
- You will be asked to sign a written statement acknowledging you have been provided the opportunity for counseling and that you are choosing not to carry the child to term.
- Staff such as your Social Worker, Health Services, Psychology, and Religious Services are available to provide you with guidance and counseling throughout the abortion process.

Your Social Worker, Medical Provider, or Unit Team can provide additional information and guidance. Also, you can refer to Program Statement 5200.07.

A Guide for Expecting Moms in the BOP



**Federal Bureau of Prisons
Women and Special Populations Branch (WASPB)**

July 2021

The Bureau of Prisons provides an inmate with medical and social services related to pregnancy, child placement, and abortion.

THE PURPOSE AND BENEFIT OF THIS GUIDE

Being pregnant means that you have many important decisions to make. This guide will provide you with information related to programs and services offered by the Bureau of Prisons (BOP) during and after pregnancy in hopes of making motherhood a less challenging experience for you and your baby.

PREGNANCY CONFIRMATION

When you arrive at the institution, you will be screened for pregnancy by Health Services staff. If you think or know you are pregnant, you should let them know right away. If you have a medical condition that might complicate your pregnancy, it is important for you to notify staff of this as well.

Once your pregnancy has been confirmed by Health Services staff, all necessary BOP staff will be notified, to include your Case Manager and Social Worker. You may choose to involve Psychology or other staff.

RESTRAINT RESTRICTIONS

Use of restraints on prisoners during the period of pregnancy and postpartum recovery period (12 weeks or longer after delivery, as determined by the healthcare provider) is prohibited unless it is determined:

- the inmate is an immediate and credible flight risk that cannot reasonably be prevented by other means;
- or poses an immediate and serious threat of harm to herself or others that cannot reasonably be prevented by other means;
- or a healthcare professional responsible for the health and safety of the prisoner determines that the use of restraints is appropriate for the medical safety of the prisoner.

In the case that restraints are used, only the least restrictive restraints necessary to prevent the harm or risk of escape, may they be used.

The restraints may not be applied: around the ankles, legs, or waist of a prisoner; to restrain a prisoner's hands behind her back; to restrain a prisoner using four-point restraints; or to attach a prisoner to another prisoner. If you may have been placed in restraints inappropriately, notify BOP staff promptly.

DECIDING WHAT TO DO

The Social Worker will meet with you to discuss options for child placement, abortion, and programming. Medical, religious, and social counseling will be provided to assist you in making decisions. However, it is your responsibility to decide how to handle your pregnancy.

RESIDENTIAL PARENTING PROGRAM (RPP)

RPP is located outside of the federal prison in the Washington Correctional Center for Women in Gig Harbor. RPP allows mothers to reside and bond with their children for up to 30 months post-delivery. Mothers and children reside together at all times, in private living spaces, except when the mother is participating in programs. Mothers have a variety of program options such as educational, vocational, parenting, mental health treatment to choose from. RPP also hosts family friendly events, which include mothers, children, and approved outside visitors. After 30 months, mothers are released to their home residence if their sentences have been completed, or placed in home confinement if their sentences have not been completed and they meet certain requirements.

To be referred for RPP, you must meet these criteria:

- Be pregnant upon commitment, with an expected delivery date prior to release.
- Be scored as Minimum security with Out or Community custody.
- Have release dates or home detention eligibility dates within 30 months of the expected delivery date.
- Have no 200 or higher series incident reports in the last six months.
- Have satisfactory or higher work evaluations (if available).
- Be clear of all serious disciplinary violations of an aggressive/assaultive nature.
- Have no current no-contact orders with minor children, no sex offense convictions, no crimes against a child, no domestic violence or other violent convictions, and no contact-founded allegation or inconclusive referrals for neglect or abuse with Child Protective Services.



DURING PREGNANCY

- You will receive routine prenatal care through Health Services providers in the institution. For services not available at the institution, appointments will take place in doctors' offices and hospitals in the community.
- Your overall health impacts the health of your baby. You are encouraged to select healthy menu options and stay active with activities such as walking. Consult with your Health Services provider about healthy diet options and safe exercise plans.
- Unit Team will arrange for you to wear different uniforms to allow for maximum comfort due to pregnancy-related weight gain.
- If you are making plans for your child to be in the care of a TCP, you may be asked to provide information and documentation to the Social Worker or your Unit Team. If at any time your plans for child placement change, you must notify staff as soon as possible.
- The TCP will be asked to sign a Statement of Responsibility form. By signing this form, the TCP accepts responsibility for the child's medical care three days after birth.
- Make sure the TCP is on your approved Visiting List.

**AFTER DELIVERY**

- The BOP Social Worker and the hospital Social Worker will collaborate and determine when the TCP and approved family members can either visit (if approved) and/or pick up the infant. Keep in mind each situation will be different.
- The BOP Social Worker will contact your TCP and tell them where the hospital is located and what time to arrive. The TCP should not arrive until the stated time of the visit and/or transfer of infant to their care.
- BOP staff will supervise the visit and/or transition of the infant to the TCP. If the TCP should not arrive, the infant may be placed in the state custody.
- The TCP should bring the following items to the hospital when preparing for the infant to be released from the hospital:
 - Valid photo ID
 - Appropriate infant car seat
 - Weather-appropriate baby clothing
 - Bottles
 - Formula
 - Diapers
 - Wipes
- If the TCP has identified a pediatrician that will care for the child, this information should be provided to hospital staff, so that medical records can be forwarded after birth.
- It is recommended for the TCP to take the Temporary Care Agreement to their local Social Services Office to inquire about healthcare coverage, the Women, Infants, and Children (WIC) Program, or any other available services.

BOP Residential Programs

The Bureau offers two residential programs for expecting mothers, Mothers and Infants Together (MINT) and the Residential Parenting Program (RPP).

MOTHERS AND INFANTS TOGETHER (MINT) PROGRAM

MINT is a community residential program, which allows expecting mothers to move outside of the federal institution into a Residential Reentry Center (RRC) during the last two months of pregnancy. During this time, mothers prepare for the upcoming birth of their babies. After birth, mothers stay at the RRC for three additional months, and up to six months, to allow for additional bonding time with their child. Mothers and their babies live together in a private-room setting. Throughout their stay, mothers are encouraged to participate in a variety of programs such as parenting, educational, vocational, mental health, and life skills.

Currently, there are five MINT sites: Dallas/Fort Worth, TX; Greenbrier, WV; Phoenix, AZ; Springfield, IL; and Tallahassee, FL.

To be eligible to participate in MINT, the following criteria must be met:

- Be pregnant upon commitment, with an expected delivery date prior to release.
- Mother or TCP must assume financial responsibility for the child's care, medical and support, while residing at the RRC.
- If the mother or TCP are unable or unwilling to bear the child's financial cost, you may be transferred back to the institution.
- Must have less than five years remaining on your sentence.
- Cannot have plans of placing your child up for adoption.

"Personally for me, the MINT/RPP Program helped because I got that bonding time with my son. I think it's important that you get to be there for the milestones. The staff there is really great. They push you even when you don't want to push yourself. It feels like a home. You know they're staff but you feel that family bond with them. They guide you instead of shaming you with helping you."

Former MINT Participant

IF YOU ELECT TO CARRY TO TERM

- Now that you've decided to carry your baby to term, the next step in the planning process is for you to determine the best placement for your child. You and the Social Worker will discuss three placement options to include:
 - *Temporary Care Provider (TCP)*: you may choose someone to act as your baby's caregiver while you are in prison. This person will assume temporary care of the child after delivery and while you are incarcerated, including financial responsibility for the child's medical expenses. This can be a family member, friend, or any other person that you specify.
 - *Adoption*: if you do not wish to raise your baby and/or do not have anyone who can take care of your baby while you are in prison, adoption may be an option for you. Be aware that adoption permanently ends your rights as a parent. It can also impact the rights of other family members to have contact with your child.
 - *Foster Care*: in the event that you do not identify a person to take responsibility for your child, the Social Worker will make arrangements with the Department of Human Services to ensure that the baby is properly taken care of until your release.
- Once you determine what placement option is best for you, the Social Worker, Health Services staff, and Unit Team will assist you with the next steps.
- Your Social Worker will provide information to you regarding programs offered by the BOP to assist you both before and after delivery; these programs include Mothers and Infants Together (MINT) Program and the Residential Parenting Program (RPP).
- Health Services staff will indicate whether a MINT/RPP placement is medically appropriate for you. If it is determined you are medically approved, documentation will be sent to your Unit Team.
- With a recommendation from Health Services, your Unit Team will determine if you meet certain eligibility requirements. MINT and RPP requirements are listed later in this guide. Once it is determined that you are eligible, your Unit Team will complete a referral. Your referral should include a specific date of placement, approximately two months prior to your expected delivery date.
- You will not be referred for MINT/RPP placement if you are putting your baby up for adoption.